



4410-15

## DEPARTMENT OF JUSTICE

### Notice of Proposed Settlement Agreement and Draft Restoration Plan Under the Comprehensive Environmental Response, Compensation and Liability Act and Clean Water Act

Notice is hereby given that the United States of America, on behalf of the Department of the Interior (“DOI”) acting through the Fish and Wildlife Service and the Commonwealth of Virginia, acting through its Secretary of Natural Resources (collectively “Trustees”), are providing an opportunity for public comment on a proposed Settlement Agreement (“Settlement Agreement”) among the Trustees and Nutrien Ag Solutions (f/k/a Crop Production Services). The Trustees are also providing notice of an opportunity for public comment on a draft Restoration Plan (“draft Restoration Plan”).

The settlement resolves the civil claims of the Trustees against Nutrien Ag Solutions (“Nutrien”) arising under their natural resource trustee authority under the Comprehensive Environmental Response, Compensation, and Liability Act, and applicable state law for injury to, impairment of, destruction of, and loss of use of natural resources as a result of a July 29, 2017 release of approximately 165 gallons of Termix 5301 at or from the Nutrien facility located at 218 Simmons Drive in Cloverdale, Virginia (“Release”). The Release occurred when a container leaked into a stormwater culvert which discharged into Tinker Creek.

Under the proposed Settlement Agreement, Nutrien agrees to pay \$385,000 to the DOI Natural Resource Damage Assessment and Restoration Fund to be used to restore, replace, rehabilitate, or acquire the equivalent of those resources injured by the Release and compensate the public for lost recreational opportunities, as proposed in the draft Restoration Plan. In addition, Nutrien agrees to pay \$40,000 to the Trustees for restoration planning and oversight

costs. Nutrien will receive from the Trustees a covenant not to sue for natural resource damages under CERCLA, the Clean Water Act, and applicable state laws.

In accordance with the CERCLA and the National Environmental Policy Act, the Trustees have also written a draft Restoration Plan/Environmental Assessment that describes proposed alternatives for restoring the natural resources and natural resource services injured by the Release. The two preferred restoration alternatives selected by the Trustees in the draft Plan are 1) Fish Passage Improvements through the removal of impediments in Tinker Creek; and 2) Recreational Fishing Improvements through one time fish re-stocking and hosting a children's fishing day.

The publication of this notice opens a period for public comment on the proposed Settlement Agreement and draft Restoration Plan. Comments on the proposed Settlement Agreement should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to the Tinker Creek Release Settlement Agreement, D.J. Ref. No. 90-5-1-1-11891. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the Settlement Agreement may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>.

We will provide a paper copy of the Settlement Agreement upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library  
U.S. DOJ – ENRD  
P.O. Box 7611  
Washington, D.C. 20044-7611

Please enclose a check or money order for \$3.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Comments on the draft Restoration Plan may be submitted to the Trustees either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	Susan_Lingenfelser@fws.gov
By mail	USFWS Virginia Field Office 6669 Short Lane Gloucester, VA 23061 Attn: Tinker Creek Restoration Plan

All comments must be submitted no later than thirty (30) days after the publication date of this notice. During the public comment period, a copy of the draft Restoration Plan will be available electronically at [https://www.cerc.usgs.gov/orda\\_docs/DocHandler.ashx?task=get&ID=5859](https://www.cerc.usgs.gov/orda_docs/DocHandler.ashx?task=get&ID=5859). A copy of the draft Restoration Plan may also be examined at the Virginia Ecological Services Field Office. Arrangements to view the documents must be made in advance by contacting Susan Lingenfelser at (804) 824-2415.

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Environment and Natural Resources Division.

